IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 274 of 1994

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH
and
Hon'ble MR.JUSTICE D.A.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

COMMISSIONER OF INCOME TAX

Versus

SAYAJI IRON WORKS (CONTRACT) PVT. LTD.

Appearance:

1. INCOME TAX REFERENCE No. 274 of 1994
MR MIHIR H JOSHI with MR MANISH R BHATT for Petitioner
NOTICE SERVED for Respondent

CORAM : MR.JUSTICE M.S.SHAH
and
MR.JUSTICE D.A.MEHTA

Date of decision: 07/11/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE M.S.SHAH)

In this reference at the instance of the revenue, the following question has been referred for our opinion in respect of assessment years 1983-84 to 1985-86 :-

"Whether, on the facts and in the circumstances of the case, the Tribunal is right in law in cancelling the disallowance made u/s. 40A(8) in relation to interest on current account of the directors and shareholders ?"

2. We have heard Mr Mihir H Joshi, learned counsel for the revenue. Though served, none appears for the respondent-assessee.

3. Our attention is invited to the decision of this Court in CIT vs. Navjivan Roller & Pulse Mills, (2001) 165 CTR 612 and also to the decision dated 16.10.2001 of this Court in the case of this very assessee being Income-tax Reference No. 81 of 1991 and cognate references.

4. Following the aforesaid decisions, our answer to the question is in the negative i.e. in favour of the revenue and against the assessee.

5. The reference accordingly stands disposed of with no order as to costs.

(M.S. Shah, J.)

(D.A. Mehta, J.)

sundar/-